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Spy Left Out in the Cold

Ex-CIA 'Spook' Enjoined

By Jim Mann

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The Justice Department yesterday obtained a temporary court order to prevent a former agent of the Central Intelligence Agency from publishing a magazine article or book about the CIA's intelligence-gathering activities.

The broadly worded court order, signed by U.S. District Court Judge Albert V. Bryan Jr. in Alexandria, also requires the former agent, Victor L. Marchetti, to return to the CIA all documents and property he obtained while employed at the agency.

Marchetti also was ordered to submit any manuscript or other writing about the CIA — "factual, fictional or otherwise" — to the agency for examination at least 30 days before its release.

The Justice Department action was reminiscent of its effort last year to prevent publication of the Pentagon papers, the government's secret study of the Vietnam war.

Yesterday's request was based on the theory that Marchetti had breached a contract he signed as a CIA employee, promising not to disclose information that might jeopardize national security.

Marchetti was employed by the CIA from 1955 to 1969, serving at one point as executive assistant to the agency's deputy director. After resigning from the agency, he published a novel called "The Rope Dancer" about an employee of the "National Intelligence Agency."

In affidavits submitted to Judge Bryan yesterday, high-ranking CIA officials, including Director Richard Helms, said the CIA has received advance copies of an article entitled "Twilight of the Spooks," written by Marchetti for publication in "a magazine with a nationwide circulation."

The CIA officials said they have also obtained a copy of an outline for a book about the CIA, written by Marchetti and purchased by "a leading publishing house in New York."

The Justice Department did not disclose the names of the publishing house and the magazine. However, late last night, Aaron Latham, an associate editor of Esquire magazine, acknowledged that Marchetti recently wrote an article entitled "Twilight of the Spooks" for Esquire.

Latham said that about two weeks ago, Esquire returned the manuscript without publishing it at Marchetti's request, after Marchetti told Esquire he had signed a contract with the publishing house of Albert A. Knopf to do a book about the CIA.

Sealed copies of the magazine article and book outline were submitted to Judge Ryan by the CIA yesterday for his private examination. The CIA said that agent Robert P. B. Lohmann of New York City obtained the manuscripts from "a confidential source" on March 12. No reason was given for the one-month delay before the court action.

Also included in the court papers was a copy of the "secrecy agreement" signed by Marchetti in 1955.

In it, Marchetti, who had then just graduated from Penn State University, swore that he would never "divulge, publish or reveal either by word, conduct or by any other means, any classified information, intelligence or knowledge . . . unless specifically authorized in writing, in each case, by the director of central intelligence."

Asked last night whether the Justice Department was also considering a criminal prosecution of Marchetti, a department spokesman replied, "That would be something you would

have to take up with the CIA," which he said would be responsible for documenting a case against Marchetti.

Following publication of the Pentagon papers, the Justice Department began a criminal prosecution of Daniel Ellsberg, charging in part that he had violated an agreement he had signed as an employee of the Rand Corp. not to disclose classified information.

Bryan, 45, a judge appointed in 1971 by President Nixon, refused to comment last night on the reasons for his issuance of the court order. A hearing in the case has been scheduled for April 28.

Marchetti, who lives in Vienna, Va., was not present in court when Judge Bryan issued his order yesterday, and could not be reached for comment last night. It was not clear whether he has already given back CIA documents as ordered by Bryan.

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